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DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

Docket No. 121231747-3659-01

RIN: 0625-AA94

Extension of Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce (the Department) is modifying its regulation concerning the extension of time limits for submissions in antidumping (AD) and countervailing duty (CVD) proceedings. The modification clarifies that parties may request an extension of time limits before any time limit established under Part 351 expires. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits.

DATES: *Effective date:* [INSERT 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. *Applicability date:* This rule will apply to all segments initiated on or after [INSERT 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Joanna Theiss at (202) 482-5052.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 2013, the Department published a proposed modification of its regulation at 19 CFR 351.302, which concerns the extension of time limits for submissions in AD and CVD proceedings. *See Modification of Regulation Regarding the Extension of Time Limits*, 78 FR 3367 (January 16, 2013) (*Proposed Rule*). The Department received several comments on the *Proposed Rule* and has addressed those comments below. The *Proposed Rule*, comments received, and this final rule can be accessed using the Federal eRulemaking portal at <http://www.Regulations.gov> under Docket Number ITA-2012-0006. After analyzing and carefully considering all of the comments that the Department received in response to the *Proposed Rule*, the Department has adopted the modification with certain changes, and is amending its regulations accordingly.

Explanation of Regulatory Provision and Final Modification

Prior to this modification, 19 CFR 351.302(c) provided that a party may request an extension before the applicable time limit specified under section 351.301 expires. The prior rule provides that a request for an extension must be in writing, filed in accordance with the relevant regulatory provision, and state the reasons for the request. If the Secretary does not exercise his discretion to extend the time limit, which must be approved in writing, section 351.302(d) sets forth the procedures for the rejection of untimely-filed or unsolicited material.

The Department is modifying section 351.302(c) to provide additional certainty to parties participating in AD and CVD proceedings in two important areas. First, the final rule will clarify that parties may request an extension of any time limit established by Part 351, rather than limiting extension requests to time limits for submissions established under section 351.301. Prior to this modification, the Department's regulations did not permit parties to request

extensions of time limits for submissions other than for those established in section 351.301. Thus, this modification makes explicit that parties may request extensions for any time limit established under Part 351. This modification is also consistent with section 351.302(b), which provides that the Secretary may, for good cause, extend any time limit established under this part.

Further, the Department is modifying section 351.302(c) to clarify and confirm the specific circumstances under which the Department will consider untimely-filed extension requests. Prior to this modification, the regulation did not account for extension requests filed after the time limit; section 351.302(c) merely stated that “before the applicable time limit expires ... a party may request an extension.” In the vast majority of situations, parties should be able to request an extension early enough to provide an adequate opportunity for the Department to consider the request before the time limit expires. The Department is therefore modifying 19 CFR 351.302(c) to specify that an untimely-filed extension request will not be considered unless the party demonstrates that extraordinary circumstances exist. Only if the Department determines that the party has demonstrated that extraordinary circumstances exist will the Department then consider whether the party has demonstrated that good cause exists for allowing an extension of the time limit pursuant to section 351.302(b).

Prior to the modification, the Department frequently encountered the situation in which a party filed an extension request so close to the time limit that the Department did not have the opportunity to respond to the request before the time limit expires. These last-minute extension requests often resulted in confusion among the parties, difficulties in the Department’s organization of its work, and undue expenditures of Departmental resources, which impeded the Department’s ability to conduct AD and CVD proceedings in a timely and orderly manner. After

consideration of the comments, and as discussed below, the Department considers that an extension request is untimely if it is filed after the applicable time limit expires. The Department has also determined that there will be a separate standard for requests for the extension of time limits for submissions that are due from multiple parties simultaneously, such as case and rebuttal briefs, pursuant to section 351.309. The Department finds that this separate standard is useful to avoid a circumstance in which, for instance, one party requests a last-minute extension of the time limit to file its case brief, with the result that it may review other parties' timely-filed briefs and thus obtain an advantage over the other parties. Thus, the Department is modifying 19 CFR 351.302(c) to specify that an extension request will be considered untimely if it is received after the applicable time limit expires or as otherwise specified by the Secretary. These modifications will diminish the cumulative impact of last-minute extension requests on the parties and the Department.

Response to Comments on the *Proposed Rule*

The Department received five comments on its *Proposed Rule*. Below is a summary of the comments, grouped by issue category, followed by the Department's response.

1. Extension Requests For All Time Limits Established By Part 351

All commenters support modifying 19 CFR 351.302(c) to clarify that parties may request an extension of any time limit established by Part 351 ("Antidumping and Countervailing Duties"), rather than limiting extension requests to submissions under section 351.301 as in the prior rule. One commenter noted that this modification codifies existing practice.

Response: The Department agrees. The final rule specifies that parties may request an extension of any time limit established by Part 351.

2. Untimely Extension Requests in General

In the *Proposed Rule*, the Department requested comment on whether the term “untimely” should include extension requests that are made very close to the applicable time limit. For example, an untimely-filed extension request could be defined as one that is received less than 48 or 24 hours before the applicable time limit expires. One commenter suggests that the term “untimely” includes any request that is filed less than 24 hours before the applicable time limit expires. Another commenter suggests that the term “untimely” includes any time limit that is filed less than 48 hours before the applicable time limit expires. Another commenter argues that a time limit, after which time the extension request is untimely, can be arbitrary, given the variances in the amount of time the Department sets for submissions and the types of submissions. For example, a specific cut-off point for requesting extensions may be unreasonable for a submission that has a three-day time limit. Citing such concerns, several commenters argue that the term “untimely” should be defined as an extension request which is received after the applicable time limit expires. One commenter alleges that the Department warns parties not to file extension requests “too early.”

Response: A standard that defines “untimely” as 24 or 48 hours before the time limit expires could be unreasonable or difficult to administer because of submissions with short time limits and the effect of intervening weekends or holidays on the 24- or 48-hour time period. Therefore, we have determined that the term “untimely” in the final rule is defined as an extension request that is received after the applicable time limit expires. This standard will apply to submissions that are not due from multiple parties simultaneously or, if the same time limit applies to multiple parties, there is no advantage to be obtained in being able to review other parties’ submissions before the party files its own submission. Examples include questionnaire

responses, supplemental questionnaire responses, and separate rate certifications and applications.

Concerning when the time limit expires, if a submission is due on Monday, December 2, 2013, for example, the submission must be received by 5:00 pm Eastern Time on that date.¹ If a party requests an extension of that time limit, the party's extension request must be received before 5:00 pm on Monday, December 2, 2013, or it will be considered untimely. On the other hand, if the Department specifies that a submission is due on Monday, December 2, 2013, at 12:00 noon, the party's extension request must be received before 12:00 noon on Monday, December 2, 2013, or it will be considered untimely.

Parties should be aware that the likelihood of the Department granting an extension will decrease the closer the extension request is filed to the applicable time limit because the Department must have time to consider the extension request and decide on its disposition. Parties should not assume that they will receive an extension of a time limit if they have not received a response from the Department. For submissions that are due at 5:00 pm, if the Department is not able to notify the party requesting the extension of the disposition of the request by 5:00 pm, then the submission would be due by the opening of business (8:30 am) on the next work day. *See* 19 CFR 351.103(b).

The Department intends to adhere strictly to 19 CFR 351.302(c), which provides that the Department must approve extension requests in writing. However, for requests that are filed very close to the time limit, the Department may issue a verbal response to a party's extension request before the applicable time limit expires and issue a written response as soon as practicable. Concerning one commenter's anecdote that Department officials have warned against filing extension requests "too early," the Department notes that the earlier an extension

¹ *See* 19 CFR 351.303(b).

request is filed, the more likely the Department may consider the extension request, decide on its disposition, and inform the requesting party of its decision before the time limit expires. This will provide certainty and reduce confusion for the parties.

3. Untimely Extension Requests for Submissions That Are Due From Multiple Parties

Simultaneously

In the *Proposed Rule*, the Department also requested comment on whether there should be a separate standard for extension requests for submissions that are due from multiple parties simultaneously, such as case and rebuttal briefs, pursuant to section 351.309. The commenter that suggested that extension requests should be filed 48 hours before the applicable time limit expires to be considered timely also suggests that, for submissions that are due from multiple parties simultaneously, the extension requests should be filed 48 hours before the applicable time limit expires to be considered timely. One commenter suggests that a requirement that extension requests be filed 48 hours before the time limit expires would be difficult for rebuttal briefs, which often have a five-day time limit. Another commenter argued that extension requests for case and rebuttal briefs may be considered untimely if they are filed less than 48 hours before the applicable time limit expires because these time limits are set well in advance of the deadlines.

Response: As with the second issue, above, the commenters have identified reasonable concerns with the Department's establishment of a time limit for the extension request which precedes the scheduled time limit for the submission. We understand these concerns, but find that a separate, earlier time limit for extension requests for submissions that are due from multiple parties simultaneously is appropriate to avoid situations in which one party requests a last-minute extension of the time limit to file its case brief, for instance, with the result that it may review other parties' timely-filed briefs and thus obtain an advantage over the other parties.

Although the Department used case and rebuttal briefs as examples of the types of submissions that would be subject to this standard in the *Proposed Rule*, this standard will apply to submissions that are due from multiple parties simultaneously where one party may obtain an advantage by reviewing other parties' submissions before the party files its own submission. Examples include: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under section 351.408(c), or to measure the adequacy of remuneration under section 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires.

The Department has adopted a standard under which an extension request will be considered untimely if it is not filed by 10:00 am on the due date. For example, if a submission is due on Monday, December 2, 2013, and a party requests an extension of that time limit, the party's extension request must be received before 10:00 am on Monday, December 2, 2013, or it will be considered untimely. With a uniform 10:00 am deadline, the Department will not be required to decide repeatedly whether an extension request is untimely. It will also provide adequate opportunity for the Department to decide on the disposition of the extension request, and, if the Department grants the extension request, to inform all parties subject to the time limit that the time limit has been extended. This will ensure that all parties subject to the time limit are made aware of the extension before the time limit expires, and to plan accordingly.

Under certain circumstances, the Department may elect to specify a different time by which extension requests will be considered untimely. For example, if a submission is due on Friday, December 6, 2013, at 12:00 noon, the Department may determine that extension requests

must be received by 3:00 pm on Thursday, December 5, 2013, or they will be considered untimely. In that case, the Department will inform parties in the letter or memorandum setting forth the time limit that extension requests must be received by 3:00 pm on Thursday, December 5, 2013, or they will be considered untimely. In addition, the Department intends to set the time by which extension requests will be considered untimely for the submission of quantity and value questionnaires on a case-by-case basis.

4. *Extraordinary Circumstances*

With the exception of one commenter that thought that a “good cause” standard should apply to untimely-filed extension requests, the commenters agree with an “extraordinary circumstances” standard for untimely-filed extension requests, which is higher than “good cause.” The comments suggested definitions, such as a situation that did not exist, or about which the requestor was unaware, prior to the beginning of the untimely period, and generally requested clarity as to what constitutes an extraordinary circumstance, such as whether technical difficulties with IA ACCESS constitute extraordinary circumstances.

Response: We have not adopted the commenter’s proposal that an untimely-filed extension request will not be considered unless the party demonstrates that good cause exists. In most situations, a party should be able to request an extension before the applicable time limit expires, because a party should be aware of the circumstances requiring an extension. In addition, the standard under which the Department evaluates timely-filed extension requests is “good cause.” *See* 19 CFR 351.302(b). It would be counterproductive to set the same standard for untimely extension requests because parties would have no incentive for filing timely extension requests. Concerning the definition of extraordinary circumstances, the Department has determined that an extraordinary circumstance is an unexpected event that: (1) could not

have been prevented if reasonable measures had been taken and (2) precludes a party or its representative from timely filing an extension request through all reasonable means. For any untimely-filed extension request, it is the party's responsibility to demonstrate that extraordinary circumstances exist, and the Department will make a determination whether extraordinary circumstances exist based on the specific facts, taking into account whether reasonable means could have been used to file a timely request or if reasonable measures could have been taken to prevent the unexpected event from occurring. Examples of extraordinary circumstances include a natural disaster, riot, war, *force majeure*, or medical emergency. Examples that are unlikely to be considered extraordinary circumstances include insufficient resources, inattentiveness, or the inability of a party's representative to access the Internet on the day on which the submission was due.

Concerning whether problems with IA ACCESS constitute "extraordinary circumstances," a technical failure of IA ACCESS generally is not an extraordinary circumstance. If IA ACCESS is "unable to accept filings continuously or intermittently over the course of any period of time greater than one hour between 12:00 noon and 4:30 pm Eastern Time or for any duration of time between 4:31 pm and 5:00 pm Eastern Time, then a person may manually file the document in the APO/Dockets Unit." 19 CFR 351.303(b)(2)(ii)(B). The IA ACCESS Handbook states that "any electronic submissions that are postponed due to a technical failure of the IA ACCESS system may not be made without having first obtained an extension of the due date from the applicable AD/CVD Office." *See Handbook on Electronic Filing Procedures*, available at:

<https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

Thus, in general, a technical failure of IA ACCESS will not be considered an extraordinary

circumstance. However, in certain, limited situations, the Department may find that a technical failure of IA ACCESS is an extraordinary circumstance if, for instance, the party and its representative are located outside of the DC metropolitan area and IA ACCESS is continuously unavailable before the submission is due.

5. Notice of Extension Request

Two commenters suggest that parties to a proceeding should be given notice before a party makes an extension request. One commenter suggests requiring the party seeking the request to notify the other parties that it is requesting an extension as is often done in practice; another commenter suggests that, if a party requests an extension less than 48 hours before the applicable time limit expires, the party must seek consent from the other parties before requesting an extension. One commenter argued that all extension requests should be filed separately from other submissions to put the other parties to a proceeding on notice.

Response: The Department has not adopted the proposals concerning notice of extension requests because it is the responsibility of the Department to set and manage the schedule of the segment of the proceeding, not that of the parties to the proceeding. The Department also finds that it would be difficult to monitor whether the party requesting the extension had notified the other parties before requesting an extension and this could delay the Department's disposition of the extension request. Concerning the suggestion that extension requests should be filed separately, the Department agrees. An extension request which is filed independently of factual information or argument is likely to come to the Department's attention more quickly, thus increasing the chance that the Department will be able to efficiently respond to the extension request. We have adopted this proposal and have modified 19 CFR 351.302(c) to require that an extension request be filed in a separate, stand-alone submission.

6. *Changes to 19 CFR 351.301*

One commenter argues that any changes to 19 CFR 351.302 must be considered in light of a complete overhaul of 19 CFR 351.301. The commenter argues that there are numerous problems with the Department's time limits, such as initial questionnaire responses that are due less than thirty days from the date of receipt of the questionnaire, "in contravention of {World Trade Organization (WTO)} protocols." The commenter argues that the Department should provide additional time for the submission of supplemental questionnaire responses, and case and rebuttal briefs. The commenter urges the Department to write better questions and to limit overlapping deadlines for submissions. The commenter argues that some time limits are unreasonably short, so requiring a party to file an extension request 72 hours before the applicable time limit expires may not be reasonable under any circumstances. The commenter is concerned that the number of extension requests may increase.

Response: The Department has not adopted this proposal. The Department is not modifying section 351.301 or section 351.309, and in fact, section 351.301 was recently modified, after notice and comment, to improve the Department's procedures concerning the submission of factual information. *See Definition of Factual Information and Time Limits for Submission of Factual Information*, 78 FR 21246 (April 10, 2013). As to the commenter's argument that the Department's time limits provide less than thirty days for the submission of factual information in questionnaire responses in contravention of "WTO protocols," the commenter is incorrect: section 351.301(c)(1)(i) provides that initial questionnaire responses are due 30 days from the date of the initial questionnaire; only if the questionnaire is divided into separate sections is the time limit for individual sections shortened. This is consistent with the WTO AD and Subsidies and Countervailing Measures Agreements. Finally, the *Proposed Rule*

did not suggest that an extension request may be considered untimely if it were received 72 hours before the applicable time limit expired; rather, the Department requested comment on whether an extension request may be considered untimely if it were received either 24 or 48 hours before the applicable time limit expired. The Department does not agree with the commenter's concern that extension requests will increase as a result of the final rule.

7. No Extensions For Certain Submissions

One commenter suggests that the Department refuse to consider extension requests after the time limit expires for certain important issues that are controlled by one party, such as market viability claims, cost allegations, major input allegations and upstream subsidy allegations. *See* 19 CFR 351.301(c)(2).

Response: The Department has not adopted this proposal. The Department has the discretion to extend any time limit established under Part 351 for good cause, and will not limit its discretion.

Changes from the Proposed Rule

In the final rule, the Department has added “in a separate, stand-alone submission” to 19 CFR 351.302(c). The Department has added 19 CFR 351.302(c)(1), to specify that an extension request will be considered untimely if it is received after the applicable time limit expires or as otherwise specified by the Secretary, and 19 CFR 351.302(c)(2), to define “extraordinary circumstance.”

Classification

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Final Regulatory Flexibility Analysis

The Department has prepared the following Final Regulatory Flexibility Analysis.

1. A Statement of the Need for, and Objectives of, the Rule

This final rule is intended to alter the Department's regulation for AD and CVD proceedings; specifically, to modify the regulation concerning the extension of time limits. The final rule would clarify that parties may request the extension of any time limit established under Part 351, as opposed to the prior rule, which only addresses requests for the extension of time limits specified under section 351.301.

The final rule would also establish an "extraordinary circumstances" standard by which the Department would consider untimely filed extension requests because the prior rule only addresses extension requests that are filed before the applicable time limit for the submission expires. The final rule also establishes that an extension request must be filed in a separate, stand-alone submission.

The legal basis for this rule is 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; and 19 U.S.C. 3538. No other Federal rules duplicate, overlap, or conflict with this rule.

2. A Statement of Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Statement of the Assessment of the Agency of Such Issues, and a Statement of Any Changes in the Proposed Rule as a Result of Such Comments.

The Department received no comments concerning the Initial Regulatory Flexibility Analysis.

3. The Response of the Agency to Any Comments Filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in Response to the Proposed Rule, and a Detailed

Statement of Any Change Made to the Proposed Rule in the Final Rule as a Result of the Comments

The Department received no comments from the Chief Counsel for Advocacy of the SBA.

4. A Description of and an Estimate of the Number of Small Entities To Which the Rule Will Apply or an Explanation of Why No Such Estimate Is Available

The final rule will apply to any interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, requesting extension of time limits for the submissions in AD and CVD proceedings. This could include any party participating in an AD or CVD proceeding, including exporters and producers of merchandise subject to AD and CVD proceedings and their affiliates, importers of such merchandise, domestic producers of like products, and foreign governments. However, it will only apply to those parties that request an extension of time limits in an AD or CVD proceeding.

Exporters and producers of subject merchandise are rarely U.S. companies. Some producers and exporters of subject merchandise do have U.S. affiliates, some of which may be considered small entities under the appropriate SBA small business size standard. The Department is not able to estimate the number of U.S. affiliates of foreign exporters and producers that may be considered small entities, but anticipates, based on its experience in these proceedings, that the number will not be substantial.

Importers may be U.S. or foreign companies, and some of these entities may be considered small entities under the appropriate SBA small business size standard. The Department does not anticipate that the final rule will impact a substantial number of small importers because importers of subject merchandise who are not also producers and exporters (or

their affiliates) rarely submit factual information in the course of the Department's AD and CVD proceedings, and those that do tend to be larger entities.

Some domestic producers of like products may be considered small entities under the appropriate SBA small business size standard. Although it is unable to estimate the number of producers that may be considered small entities, the Department does not anticipate that the number affected by the final rule will be substantial. Frequently, domestic producers that bring a petition account for a large amount of the domestic production within an industry, so it is unlikely that these domestic producers will be small entities.

In sum, while recognizing that exporter and producer affiliates, importers, and domestic producers that submit information in AD and CVD proceedings will likely include some small entities, the Department, based on its experience with these proceedings and the participating parties, does not anticipate that the final rule would impact a substantial number of small entities.

5. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule

The final rule will require a party submitting an untimely-filed extension request to demonstrate that extraordinary circumstances exist. This will not amount to a significant burden. Under normal circumstances, a party should be able to submit its extension request in a timely manner because an extension request is a straightforward and usually concise document, identifying only the material to be submitted, the current time limit, the requested extension of that time limit, and the reason for the extension request. In other words, there is no reason to submit extension requests in an untimely manner except under extraordinary circumstances. Thus, if a party files its extension request in an untimely manner, the extraordinary

circumstances for submitting the extension request in an untimely manner will be readily available to the party making the untimely extension request.

6. A Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

The Department has taken steps to minimize the significant economic impact on small entities. As discussed above, all parties may request an extension pursuant to section 351.302, and the Department will continue to grant extensions of time limits to the extent that they are warranted and deadlines for the segment permit. Further, the Department considered significant alternatives to the final rule. The alternatives are:

- (1) Maintaining the current rule, which does not address extension requests for time limits established in provisions other than § 351.301, or untimely-filed extension requests;
- (2) Modifying the rule to establish that parties can request an extension of any time limit established under this part, and that untimely-filed extension requests will not be considered unless the party demonstrates that good cause exists;
- (3) Modifying the rule to establish that parties can request an extension of any time limit established under this part and that untimely-filed extension requests will not be considered; and
- (4) Modifying the standard for “untimely” to require extension requests to be filed 24 or 48 hours before the time limit expires.

The Department does not anticipate that the first alternative will have a significant economic impact on small entities. The Department determined that maintaining the current rule

and not addressing extension requests for time limits other than those established under section 351.301, and not including a standard concerning untimely-filed extension requests, will not serve the objective of the proposed rule. If the Department maintained the current rule, then there would be no standard under which the Department would consider untimely-filed extension requests. This would not provide certainty to parties participating in AD and CVD proceedings, and would not address the administrative issues that the Department has encountered with untimely-filed extension requests. Thus, although this alternative was considered, it was not chosen.

The Department also considered modifying the rule to clarify that a party may request an extension of any time limit established under this part and to establish that the Department will not consider an untimely-filed extension request unless the party demonstrates that good cause exists, described as alternative two. As discussed in the consideration of its preferred alternative, the clarification that a party may request an extension request of any time limit established by this part serves the objectives of the proposed rule because it makes clear that 19 CFR 351.302(c) applies to extension requests for any time limit established by this part.

The Department next considered a “good cause” standard for untimely-filed extension requests. As with the “extraordinary circumstances” standard included in the final rule, this alternative establishes a standard under which untimely-filed extension requests will be considered, which is missing from the current rule. The disadvantage to this alternative is that the “good cause” exists as the standard by which the Department already considers timely-filed extension requests under the current rule. Therefore, a party would have no reason to submit its extension request in a timely manner, because the same standard would apply as if the extension request were filed in an untimely manner. This will not serve the objective of the proposed rule

to avoid confusion, will perpetuate the current difficulties in the Department's organization of its work, and will perpetuate the undue expenditure of Departmental resources in addressing extension requests. Thus, this alternative was not chosen.

The Department also considered modifying the rule to clarify that a party may request an extension of any time limit established under this part and to establish that the Department will not consider any untimely-filed extension requests, described as alternative three. The clarification that an extension request may be of any time limit established by Part 351 serves the objectives of the proposed rule because it makes clear that 19 CFR 351.302(c) applies to extension requests for any time limit established by Part 351. However, the Department does recognize that extraordinary, extenuating circumstances can and do arise which may prevent a party from submitting a timely-filed extension request, and, therefore, it considers this alternative to be too inflexible to permit the Department to effectively and fairly administer the AD and CVD laws. Thus, it has not been chosen.

Modifying the standard for "untimely" submissions does not impose any significant burden on the parties in AD or CVD proceedings. However, there are some concerns with this approach, including: (a) the effect on the 24- or 48-hour period if there is an intervening weekend and/or holiday; and (b) submissions with short time limits. If the Department were to adopt this alternative, it would need to establish criteria to address these issues. For example, if the time limit is less than five days, then the extension request is untimely if it is filed less than eight hours before the time limit expires. The Department recognizes that the 24- or 48-hour policy has the potential to create some of the same problems regarding weekends and holidays as the current rule, and in the case of rebuttal briefs and other submissions with short deadlines, it could prove difficult to comply with. Thus, it has not been chosen.

Small Business Compliance Guide

In accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, the agency has published a guide to assist small entities in complying with the rule.

Paperwork Reduction Act

This rule does not require a collection of information for purposes of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*).

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Cheese, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Paul Piquado
Assistant Secretary
for Import Administration

September 13, 2013
Date

For the reasons stated, 19 CFR Part 351 is amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; and 19 U.S.C. 3538.

2. In § 351.302, revise paragraph (c) as follows:

§ 351.302 Extension of time limits; return of untimely filed or unsolicited material.

(c) *Requests for extension of specific time limit.* Before the applicable time limit established under this part expires, a party may request an extension pursuant to paragraph (b) of this section. An untimely filed extension request will not be considered unless the party demonstrates that an extraordinary circumstance exists. The request must be in writing, in a separate, stand-alone submission, filed consistent with § 351.303, and state the reasons for the request. An extension granted to a party must be approved in writing.

- (1) An extension request will be considered untimely if it is received after the applicable time limit expires or as otherwise specified by the Secretary.
- (2) An extraordinary circumstance is an unexpected event that:
 - (i) Could not have been prevented if reasonable measures had been taken, and
 - (ii) Precludes a party or its representative from timely filing an extension request through all reasonable means.